



Docket No.: 051319-36

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicants: Kaoru Matsumoto,

Shuichi Otsuka

Serial No.: 10/612,116

Filed: July 2, 2003

For: **SERIAL VENTILATION DEVICE**

Examiner: Vikansha S Dwivedi Group Art Unit: 3746

Date of Deposit: August 31, 2006

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Mail Stop AF  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**REQUEST FOR WITHDRAWAL OF FINALITY OF OFFICE ACTION**

Sir:

Applicant observes that the Action of June 1, 2006 was prematurely made final.

Pursuant to MPEP § 706.07 and § 707.07, Applicant requests that the premature finality of the Action of August 26, 2004 be withdrawn, and that the Response to Office Action filed herewith be entered as of right.

Under 37 CFR § 1.104, "[t]he examiner's action will be complete as to all matters..." (See MPEP § 707.07). MPEP § 707.07(g) further warns that "Piecemeal examination should be avoided as much as possible." MPEP § 706.07 elaborates § 707.07(g), and protects applicants against piecemeal examination, forbidding a rejection from being made final when the rejection is incomplete:

Before final rejection is in order, a clear issue should be developed between the examiner and applicant. ...

No "clear issue" can be developed where the Examiner's Office Action has been entirely silent with respect to at least one limitation of one independent Claim. Specifically, the Final Office Action is silent with respect to the limitation Claim 14 stating that each ventilator comprises "a motor base, with an outer circular wall shaped in a tilted configuration such that a diameter of the outer circular wall of said motor base decreases to the midpoint between the first and second ventilators."


Additionally, the Office action of June 1, 2006 omits grounds for rejection of several dependent claims. Although Claims 7, 8, 10, 11 and 19-20 are indicated as rejected on the Office Action, there is no discussion as to the grounds for their rejection in the Detailed Action section. Specifically, the Office Action is silent with respect to which cited prior art discloses each limitation of these dependent Claims.

Because the Office Action of June 1, 2006 entirely omits discussion of a necessary element of a rejection, the rejection is not in condition for appeal. Without that readiness, final rejection is premature.

For these reasons, the finality of the Office Action of June 1, 2006 should be withdrawn, the attached Amendment and Response should be entered as of right and the enclosed Remarks should be given the Examiner's full consideration.

Respectfully submitted,

Date: August 31, 2006

  
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